

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

vs.

MONICA PESINA,
NICHOLAS SEAN CARTER,

Defendant.

NO. 4:19-CR-06063-SMJ
4:19-CR-06063-SMJ

**ORDER GRANTING
DEFENDANT'S MOTION TO
CONTINUE**

**AMENDED CASE
MANAGEMENT ORDER**

This matter having come before the Court on Defendant's Motion to Continue Trial date and Pre-Trial Conference, ECF No. _____. Defense counsel, Nicholas Marchi requests a continuance of the pretrial motions filing deadline, the pretrial conference, and the trial, to allow more time to examine discovery, prepare any related motions, and prepare for trial. Defendant supports counsel's request for a trial continuance for the articulated reasons. ECF No. _____. Assistant U.S. Stephanie Van Marter appearing on behalf of the U.S. Attorney's Office (USAO), does not oppose the request. Adam Pechtel, counsel for Ms. Pessina and Ms. Pessina do not object to the request.

To ensure defense counsel is afforded adequate time to review discovery, prepare any pretrial motions, conduct investigation, and prepare for trial, the Court grants the motion, extends the pretrial motion deadline, and resets the currently scheduled pretrial conference and trial dates. The court finds that Defendant's continuance request is knowing, intelligent, and voluntary, and that

1 the ends of justice served by granting a continuance outweigh the best interest of the public and
2 Defendant in a speedy trial. The delay resulting from Defendant's motion is therefore excluded
3 under the Speedy Trial Act.

4 Counsel are advised that all second or successive continuance requests will be closely
5 scrutinized for the necessity of more time to effectively prepare, taking into account the exercise of
6 due diligence.

7 Having considered the parties' proposed case schedule and deadlines, the Court now enters
8 the following Amended Case Management Order, which sets forth the deadlines, hearings, and
9 requirements the parties will observe in this matter. To the extent this Order conflicts with any
10 previously-entered Orders in this matter, this Order shall govern. All counsel are expected to
11 carefully read and abide by this Order and such provisions of the current CMO which have not been
12 superseded herby. The court will grant relief from the requirements in this Order only upon motion
13 and good cause shown.

14 Accordingly, **IT IS HERBY ORDERED:**

15 1. Defendant's Motion to Continue Pretrial Conference and Trial Dates,

16 **ECF No. _____, is GRANTED.**

17 2. The court finds, given defense counsel's need for time to review discovery, prepare any
18 pretrial motions, conduct investigation, and prepare for trial, that failing to grant a
19 continuance would result in a miscarriage of justice and would deny defense counsel the
20 reasonable time necessary for effective preparation, taking into account the exercise of due
21 diligence. See 18 U.S.C § 3162 (h)(7)(A).

22 **3. Original CMO.** Counsel must review the provisions of the original November 12, 2019
23 CMO, ECF No. 41, and abide by those procedures which remain in full force and effect and
24 are incorporated herein except for the new compliance deadlines in the following Summary
25 of Amended Deadlines.

4. Pretrial Conference

A. The suppression hearing is set for May 4-5 at 9:00AM¹ in Richland and a pretrial conference is **RESET** to May 28, 2020, at 10:15 **AM** in Richland. At the PTC hearing, the Court will hear ALL pretrial motions that are noted for oral argument.

B. All Pretrial Conference are scheduled to last no more than **thirty (30) minutes**, which each side allotted fifteen (15) minutes to present their own motions and resist motions by opposing counsel. If any party anticipates requiring longer than fifteen minutes, that party must notify the Courtroom Deputy at least seven (7) days prior to the hearing. **Any party who fails to provide this notice will be limited to fifteen (15) minutes.**

5. **Trial.** The court **SETS** this matter for jury trial on June 22, 2020, at **9:00 AM** in Richland.

Counsel and Defendant shall be prepared to meet with the Court at least thirty (30) minutes prior to the commencement of the trial.

6. Pursuant to 18 U.S.C. § 3161 (h)(7)(B)(i) and (iv), the Court **DECLARES EXCLUDABLE from Speedy Trial Act calculations** the period from April 15, 2019, the date defense counsel moved to continue, through June 24, 2019, the new trial date, as the period of delay granted for adequate preparation by counsel.

7. Summary of Deadlines

USAO Expert Notice Defense Expert	April 3, 2020 April 17, 2020
All pretrial motions, including discovery motions, <i>Daubert</i> motions, and motions in <i>limine</i> , filed	April 17, 2020
Suppression Hearing	May 4-5 9:00am Richland

¹ The United States has not heard back from all of its potential witnesses as to availability for the May 4 or 5th date.

The United States will update the court and counsel should there be a conflict.

CP's identities and willingness to be interviewed disclosed to Defendant (if applicable)	May 29, 2020
Grand jury transcripts produced to Defendant Case Agent: Cls: Other Witnesses:	May 29, 2020 May 29, 2020 May 29, 2020
Exhibit lists filed and emailed to the Court	June 15, 2020
Witness lists filed and emailed to the Court	June 15, 2020
Trial briefs, jury instructions, verdict forms, and requested voir dire filed and emailed to the court	June 15, 2020
Exhibit binders delivered to all parties and to the Court	June 15, 2020
Delivery of JERS-compatible digital evidence files to the Courtroom Deputy	June 15, 2020
Trial notices filed with the Court	June 17, 2020
Technology readiness meeting (in-person)	June 17, 2020
JURY TRIAL	June 22, 2020 9:00AM – Richland

IT IS SO ORDERED. The Clerk's Office is directed to enter this Order and provide copies to all counsel, the U.S. Probation Office, and the U.S. Marshals Service.

DATED this ____ day of December 2019.

Salvador Mendoza Jr.
United States District Judge